

AMENDED IN SENATE JUNE 24, 2009

AMENDED IN ASSEMBLY MAY 7, 2009

AMENDED IN ASSEMBLY APRIL 20, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

## ASSEMBLY BILL

**No. 1232**

---

**Introduced by Assembly Member Huffman**  
(Coauthor: Senator Leno)

February 27, 2009

---

An act to add Section 56375.2 to the Government Code, relating to local government.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1232, as amended, Huffman. Local agency formation commissions: powers and duties.

Existing law requires the local agency formation commission in each county, to, among other things, review and approve or disapprove proposals for changes of organization, or reorganization, and authorizes the commission to initiate proposals for the formation, consolidation, or dissolution of a district, a merger, or the establishment of a subsidiary district, as specified.

This bill would, on and after January 1, 2011, authorize the Marin County Local Area Formation Commission to initiate and approve the *reorganization or consolidation of one or more small wastewater agencies if certain conditions exist the Sewerage Agency of Southern Marin (SASM) and its member districts, and would also authorize the commission to require SASM and its member districts to pay the commission's costs associated with the reorganization or consolidation.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature hereby finds and declares the  
2 following:

3 (a) The federal Clean Water Act prohibits the discharge of  
4 pollutants into ~~water~~ *waters* of the United States except in  
5 compliance with various sections of that act, including permits for  
6 treated discharge of wastewater.

7 (b) Wastewater sewer systems collect, transport, and treat  
8 wastewater sewage. However, illegal sewage spills of raw or  
9 partially treated sewage ~~often occur~~ *are a serious problem in aging*  
10 *sewer systems* and are commonly caused by severe weather and  
11 improper system operation and maintenance.

12 (c) The United States Environmental Protection Agency  
13 estimates that there are at least 40,000 sewage spills each year.  
14 The sewage from these spills can contaminate ~~our waters~~ *surface*  
15 *and groundwater*, causing serious water quality problems.

16 (d) ~~Untreated sewage discharged into San Francisco Bay is part~~  
17 ~~of a critically important~~ *can cause significant harm to an* estuary  
18 that supports large numbers of birds, fish, and wildlife, including  
19 threatened and endangered species. The bay and estuary are also  
20 linked to the water supply for over two-thirds of the state's  
21 population.

22 (e) ~~The San Francisco Bay Regional Water Quality Control~~  
23 ~~Board reports that over 2,000 separate illegal sewage spills~~  
24 ~~occurred between 2004 and 2007. Over 500 of the spills exceeded~~  
25 ~~1,000 gallons. One of the largest spills was 2.5 million gallons in~~  
26 ~~Marin County, which illegally discharged both untreated and~~  
27 ~~partially treated sewage into Richardson Bay, which is an~~  
28 ~~ecologically sensitive area.~~

29 (f) ~~Small wastewater agencies are often challenged with the~~  
30 ~~high cost of maintenance and repair of sewer lines and treatment~~  
31 ~~plants. To reduce water quality problems and to increase system~~  
32 ~~efficiencies, in 2004 the Marin County Local Area Formation~~  
33 ~~Commission recommended a consolidation plan for 11 small~~  
34 ~~wastewater agencies.~~

1 ~~(g) It is the intent of the Legislature to increase the effectiveness~~  
2 ~~and efficiency of small wastewater agencies and reduce the impacts~~  
3 ~~of water quality due to illegal sewage spills.~~

4 *(e) The United States Environmental Protection Agency reports*  
5 *that from 2004 to early 2008, the Sewerage Agency of Southern*  
6 *Marin (SASM) and its six member districts had over 200 illegal*  
7 *sewage spills.*

8 *(f) On January 25, 2008, in Marin County, SASM illegally*  
9 *spilled over 2.5 million gallons of raw and partially treated sewage*  
10 *to the San Francisco Bay. As a result of this illegal spill, the United*  
11 *States Environmental Protection Agency and the San Francisco*  
12 *Bay Regional Water Quality Control Board issued violation notices*  
13 *and required operational improvements and payment of one million*  
14 *six hundred thousand dollars (\$1,600,000) in fines.*

15 *(g) The Marin County Grand Jury reviewed and reported on*  
16 *the southern Marin sewage problem in 2004, and again in 2009.*  
17 *The Grand Jury recommended in their 2009 report that “SASM*  
18 *and its six member districts consolidate into one central agency*  
19 *with a single budget and staff” and indicated that consolidation*  
20 *could occur gradually, but planning should begin now.*

21 *(h) The Marin Local Area Formation Commission (LAFCO),*  
22 *in preparation for the 2005 Municipal Service Review, conducted*  
23 *an evaluation of the southern Marin sewer agencies. The study*  
24 *concluded that there is a strong and positive case for southern*  
25 *Marin sewer agencies to initially pursue more collaborative*  
26 *working relationships, and to secondly pursue political and*  
27 *governance consolidations in order to achieve improvements in*  
28 *efficiency and effectiveness and reduce demands for budget*  
29 *increases.*

30 *(i) It is the intent of the Legislature that SASM and its member*  
31 *districts take action immediately to increase the effectiveness and*  
32 *efficiency if its operations in order to provide more cost-effective*  
33 *customer service and to reduce the impacts on water quality due*  
34 *to illegal sewage spills. It is also the intent of the Legislature that*  
35 *if SASM and its member districts do not act to address the*  
36 *inefficiencies of their operations, that the Marin LAFCO shall*  
37 *have the authority to require consolidation of SASM and its*  
38 *member districts into one new district.*

39 SEC. 2. Section 56375.2 is added to the Government Code, to  
40 read:

1     ~~56375.2. (a) For purposes of this section the following terms~~  
2     ~~have the following meanings:~~

3     ~~(1) “Commission” means the Marin County Local Area~~  
4     ~~Formation Commission.~~

5     ~~(2) “Small wastewater agencies” means sanitation districts and~~  
6     ~~local governments that provide sewer and wastewater collection~~  
7     ~~or treatment services to 10,000 service connections or less.~~

8     ~~(b) In addition to those powers enumerated in Section 56375,~~  
9     ~~the commission may initiate and approve, after notice and hearing,~~  
10    ~~a reorganization or consolidation of small wastewater agencies,~~  
11    ~~without protest hearings, if all of the following conditions exist:~~

12    ~~(1) A commission municipal services review done for the~~  
13    ~~wastewater agencies, completed within the prior 10 years, makes~~  
14    ~~findings or determinations related to reorganization or~~  
15    ~~consolidation, that if implemented would improve financial and~~  
16    ~~service level benefits, government accountability, operational~~  
17    ~~efficiencies, and provide cost savings for the ratepayers.~~

18    ~~(2) The wastewater agencies have not implemented the~~  
19    ~~commission’s findings or determinations adopted in the municipal~~  
20    ~~services review described in paragraph (1).~~

21    ~~(3) The wastewater agencies affected have had three or more~~  
22    ~~illegal discharges, based on violations identified by the San~~  
23    ~~Francisco Regional Water Quality Control Board, in the last five~~  
24    ~~years that exceed 5,000 gallons of untreated or partially treated~~  
25    ~~wastewater to waters of the state.~~

26     ~~56375.2. (a) In addition to those powers enumerated in Section~~  
27     ~~56375, the Marin Local Area Formation Commission may initiate~~  
28     ~~and approve, after notice and hearing, a reorganization or~~  
29     ~~consolidation of the Sewerage Agency of Southern Marin and its~~  
30     ~~member districts, without protest hearings.~~

31     ~~(b) If the commission initiates and approves the reorganization~~  
32     ~~or consolidation pursuant to subdivision (a), the commission may~~  
33     ~~impose terms and conditions on the reorganization or consolidation~~  
34     ~~that would require the Sewerage Agency of Southern Marin and~~  
35     ~~its member agencies to be responsible for payment of the~~  
36     ~~commission’s costs incurred in association with the reorganization~~  
37     ~~or consolidation.~~

38     ~~(c) This section shall become effective on January 1, 2011.~~

39     ~~SEC. 3. The Legislature finds and declares that, because of the~~  
40     ~~unique circumstances applicable to the County of Marin, a statute~~

1 of general applicability cannot be enacted within the meaning of  
2 subdivision (b) of Section 16 of Article IV of the California  
3 Constitution. Therefore, this special statute is necessary.

O